IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5750 OF 2005

Khalapur Taluka Shikshan Prasark
Mandal & anr. .... Petitioner

versus

Jivan Kisan Ingole & ors. ... Respondents.

Mrs. Anita Agarwal for the petitioner.
Shri S.V.Pitre for Respondent no.1.
Shri M.H.Solkar AGP for Responmdent no.4.

CORAM; P.V. KAKADE, J.

DATED; FEBRUARY 17, 2006.

P.C:

1. Heard the learned counsel for both the parties.

Perused the record.

2. Rule. Rule made returnable forthwith.

3. The petitioner has filed this petition against the order passed by the Presiding Officer, School Tribunal, Pune, dated 10-9-2003 allowing the appeal and set aside the order of termination of services of the respondent dated 23-5-2002 and further directing the present petitioner to reinstate the respondent in service from the date of his termination i.e. from 1-7-2002 with full backwages.

4. It is to be noted that pending the petition, the petitioner management has re-instated the respondent in service and therefore there is no question of agitating the issue involved in so far as re-instatement is concerned.

5. The only issue remained to be adjudicated was regarding payment of full backwages. On this aspect the petitioner submitted that during the course of non-employment of the respondent he was gainfully employed as he was plying an autorickshaw in the town of Khopoli and therefore order regarding payment of backwages was the issue between the parties. In this regard both the parties were directed to file affidavit in support of their contention. It is to be noted that the respondent in his affidavit dated 1-2-2006 admitted that since January 2005 he was plying autorickshaw within the Municipal limit of Khopoli. According to him he was getting an amount of Rs. 1500/- per month the average from such autorickshaw business. Infact there is no evidence on record in order to shos that he was not plying the autorickshaw prior to January 2005. However, in the course of arguments, it was suggested to both the parties, that matter to be settled if any particular sum is decided to be paid as lumpsum as part of the backwages to be paid to the respondent.

6. The learned counsel for both the parties after consulting their clients, who were present before the court agreed for the amount of Rs. 75,000/- to be paid as lumpsum towards the backwages to the respondent and therefore we need not go into the merits of that aspect.

7. In view of this position, rule is made absolute. The impugned order passed by the Presiding Officer, School Tribunal regarding reinstatement is already complied with and so far as payment of full backwages from the date of termination is concerned, it is hereby set aside and it is directed that the petitioner shall pay an amount of Rs. 75,000/- towards full and final settlement regarding payment of backwages to the respondent. The amount to be paid within four weeks from the date of this order to the respondent.

8. With this direction the petition stands disposed of with no order as to costs. Needless to mention that the services of the respondent are protected with all the service benefits from the date of his original appointment as is mentioned in the affidavit of the petitioner.

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